



Bishul Akum and Non-religious Jews PART 1

Our Sages decreed that certain foods cooked by non-Jews are prohibited to consume, even when the food is entirely kosher. Based on most early authorities (see *Tosfot Avodah Zara* 38:a), the reason for this decree is concern about possible intermarriage resulting the closeness that might develop from eating with non-Jews.

Later authorities raise the question of whether non-religious Jews are included in this decree. *Tiferet Lemoshe (Pitchei Teshuva YD 113:1)* claims that since the basis of the decree is the concern of intermarriage through mingling, this decree should not include Jews, since there is no prohibition against marrying the children of non-religious Jews. On the other hand, *Tiferet Lemoshe* also mentions an additional reason brought down by *Rashi (Avodah Zara 38:a)* and other early authorities (see: *Rashi* mentions that another reason for the decree of prohibiting kosher food cooked by a non-Jew is the concern that a non-Jew would intentionally mix non-kosher food into the cooked dish, in order to cause Jews to transgress. According to this reason, even a non-religious Jew could conceivably do this and therefore might be included in the decree of *bishul akum*.

WHAT IS A MUMAR?

Halachically, the status of a Jew who has

sinned, even in something quite severe such as illicit relations, remains unchanged (see *Sanhedrin* 44:a). However, there are some exceptions. Numerous sources state that a Jew who believes in and worships foreign gods has lost his or her status as a halachic Jew. This removal of status is so severe that such a person may not slaughter kosher animals, which may only be done by a Jew; they are not permitted to perform a circumcision (*brit milah*) and they cannot testify for any binding Jewish ceremony such as a wedding or divorce. The *Gemara* in *Chullin* (4:b) adds that one who publicly transgresses the laws of Shabbat is also in this category. *Rashi* on the *Gemara* explains that a Jew who desecrates Shabbat is denying Hashem's creation of the world, which is heresy. These severe sins classify someone as a *Mumar* (apostate, someone who has left the fold).

This classification is relevant to *bishul akum* since it is the source of a serious dispute between early and later authorities regarding the status of Jews who do not observe Shabbat or who worship other gods, and whether they are included in the decree of *bishul akum*. And of course if they are included in the decree, it would be prohibited to consume their cooked food



even if it was kosher.

MARRYING A MUMAR

As seen before by *Tiferet Lemoshe*, only according to the second reasoning behind *bishul akum* — i.e., the suspicion of mixing in non-kosher food — would a *mumar* status qualify for the *bishul akum* decree. However, certain authorities claim that even according to the original reason for *bishul akum* — the concern of intermarriage — a *mumar* would be included in the decree. *Mahar"i Asad* (YD 31) brings proof from early authorities (*Ran on Chulin* 4:b) that a *mumar* is not only considered “not Jewish” in relation to testimony and kosher slaughter; there is also a prohibition against marrying a *mumar*, just like any non-Jew. Other authorities also concur with this conclusion (*Mahara"m Shik* 281, *Avnei Nezer* 92:5).

Many authorities disagree. According to the dissenting view, although we have rules that are meant to distance us from *mumarim*, there is no prohibition against marrying one, since they are still essentially Jewish and can return to keeping mitzvot. Rav Ovadia Yosef in his responsa (*Yabia Omer* YD 5:10) brings numerous proofs from the numerous sources that marrying a *mumar's* child is certainly permitted.

BISHUL AKUM BY KARAITES

Another point discussed regarding *bishul akum* as it relates to a non-*shomer shabbat* Jew is the status of Karaites. Karaites

believe that all of the Divine commandments which were handed down to Moses by God were recorded in the written Torah, without any additional Oral Law or explanation. Halachically they are certainly Jewish, but their rejection of the Oral Law accords them a status similar to a *mumar*. Interestingly, *Pri Chadash* (YD 112:1) and *Pri Megadim* (YD 112:3), both very dominant halachic *poskim*, rule that Karaites are included in the decree of *bishul akum*. This is perplexing, since Karaites are definitely Jewish. Some authorities see these rulings as proof that nonobservant Jews are included in the decree, since they should be no different than Karaites (see Responsa *Yehuda Ya'alei* YD 34). The *Pri Chadash* himself adds that since the Karaites desecrate the holidays, it is as if they are not Jewish.

The subject of food cooked by the non-religious in terms of *bishul akum* is very complicated. We will expand on the subject in our next article. ■

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